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HOUSE BILL 1372

By Harwell

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 3, Part 3, relative to the replacement of the Tennessee Foundation Program funding formula with the Basic Education Program funding formula.

WHEREAS, the Tennessee Foundation Program funding formula is no longer used for education funding; and

WHEREAS, in 1992, the general assembly adopted a new formula for funding elementary and secondary education; and

WHEREAS, this formula is known as the Basic Education Program ("BEP"); and

WHEREAS, although the Tennessee Foundation Program is obsolete, the language still exists in the Tennessee Code Annotated; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-3-302, is amended by deleting the section in its entirety and by substituting instead the following new language:

Section 49-3-302. Definitions. As used in this part, unless the context otherwise requires:

- (1) "Average daily attendance" or "ADA" means the aggregate days' attendance of a given school during a given reporting period divided by the number of days school is in session during this period as provided in the rules and regulations of the state board;
- (2) "Average Daily Membership" or "ADM" means the sum of total number of days enrolled divided by the number of days school is in session during this period as provided in the rules and regulations of the state board;
- (3) "Basic Education Program" or "BEP" is the funding formula for the calculation of K-12 education funding necessary for our schools to succeed;
- (4) "Board" means the board of education of any local education agency;
- (5) "Certificated personnel" means any person employed by a local education agency and for whom certification is required as a condition of employment by law;
- (6) "Commissioner" means the commissioner of education;
- (7) "Contact hour" means an hour of student time that is supervised by certificated personnel;
- (8) "Full-time equivalent" or "FTE" means the total number of contact hours in attendance in a program during one (1) school week divided by the number of hours required for a school week as established by the state board for grades kindergarten (K) through twelve (12) in an LEA;
- (9) "Full-time equivalent average daily attendance" or "FTEADA" means the average of the aggregated FTEs in attendance in one (1) program during the given reporting periods;
- (10) "Local education agency" or "LEA" means any county, city, or special school district, unified school district, school district of any metropolitan form of government or any other school system established by law;

(11) "Rules and regulations" means those rules and regulations, which the state board may adopt as provided in § 49-3-305;

(12) "State board" means the state board of education or the state board for vocational education;

(13) "State education agency" or "SEA" means the department of education;

(14) "State salary schedule" means the salary schedule adopted by the state board for certificated personnel which is based on training and experience;

(15) (A) "State training and experience factor" means the average training and experience of all certificated personnel in the state based upon the table of training and experience factors adopted by the state board;

(B) "Training and experience factor" means the average training and experience of all certificated personnel in each LEA based upon the table of training and experience factors adopted by the state board;

(16) "Weighted full-time equivalent average daily attendance" or "WFTEADA" means one (1) full-time equivalent average daily attendance multiplied by the cost differential for a program; and

(17) "Weighted identified and served handicapped" means one (1) identified and served handicapped student multiplied by the cost differential for special education.

SECTION 2. Tennessee Code Annotated, Section 49-3-306, is amended by deleting the section in its entirety and by substituting the following new language:

Section 49-3-306. Computation—Pay supplement--Certificated personnel salaries.

(1) The commissioner, as approved by the state board of education, shall annually formulate a table of training and experience factors and a state salary schedule to be effective for each school year, which shall be applicable to all certificated

personnel in every LEA, and which shall include an established base salary per school year consisting of a term of two hundred (200) days for beginning certificated personnel with a bachelor's degree and zero (0) years of experience. Certificated personnel having more training and experience shall receive more than the established base per school year. Certified personnel having less training and experience shall receive less than the established base per school year. Such salary schedule shall not be applicable to substitute personnel.

(2) Such salaries shall be payable in at least ten (10) monthly installments during any school year. State education funds received by any local education agency for the state salary schedule shall be payable in equal installments starting with the first regular pay period. The salary for part-time personnel shall be proportionately less than that herein provided for full-time personnel. Nothing in this section shall prevent any LEA from supplementing salaries from its own local funds when such funds are in addition to the local contribution of such LEA. When any LEA allowed any certificated personnel at the beginning of or during the preceding school term, an amount in addition to the salary which was required for such personnel under the state salary schedule in effect at the beginning of or during the preceding school term and which additional amount is paid entirely out of local funds, then the LEA shall continue to pay such additional amount out of local funds.

(3) A board may, with the approval of the commissioner, make such readjustment in the salary of certificated personnel as may be necessary to place the salary in fair relation to the salaries of other certificated personnel in the same LEA with comparable tenure, responsibility, training and experience; except that the affected certificated personnel shall be entitled to a hearing before the board. In computing the salaries required to be maintained by this subdivision, only the part thereof paid under the authority of any LEA need be maintained. No LEA shall be required to supply any

decrease in funds formerly available to supplement salaries from other than local sources.

(4) Notwithstanding any other provision of law to the contrary, any board may increase the salaries of its employees at any time during the school year, upon the basis of a new or amended contract, if in so doing it does not exceed its budget as adopted or amended. Unless such funds are specifically appropriated for salary increases, no LEA shall increase salaries of existing personnel by using state funds appropriated for public education that have been allocated for new or additional positions.

(5) Each LEA shall establish a local salary schedule for all certificated personnel in such LEA, and such schedule shall include, as a minimum, the same salary level or levels based upon college preparation as established by the state board in the state salary schedule.

(6) The LEA's training and experience factor shall be calculated by the SEA as follows: By using the table of training and experience factors adopted by the state board, the SEA will classify all certificated personnel employed by the LEA on December 1, or the first full teaching day thereafter, according to training and experience as provided in the rules and regulations and compute the average training and experience factor for such personnel.

SECTION 3. Tennessee Code Annotated, Section 49-3-307, is amended by deleting the section in its entirety.

SECTION 4. Tennessee Code Annotated, Section 49-3-308, is amended by deleting the section in its entirety.

SECTION 5. Tennessee Code Annotated, Section 49-3-309, is amended by deleting the section in its entirety and by substituting instead the following new language:

Section 49-3-309. Transportation services.

(1) Student transportation services shall be defined by the commissioner, as approved by the state board.

(2) State funds for student transportation shall be included in the transportation component of the Basic Education Program funding formula. In making such calculation, only the ADA of students transported at public expense who live one and one-half (1 1/2) miles or more from the school to which they are assigned by the respective board and in which they are enrolled shall be taken into account. However, the board may in its discretion provide, at local expense, student transportation services for children who live less than one and one-half (1 1/2) miles from the school to which they are assigned and in which they are enrolled. State funds shall be generated under the rules and regulations for the transportation of physically handicapped students who are transported less than one and one-half (1 1/2) miles.

SECTION 6. Tennessee Code Annotated, Section 49-3-310, is amended by deleting the section in its entirety.

SECTION 7. Tennessee Code Annotated, Section 49-3-311, is amended by deleting the section in its entirety.

SECTION 8. Tennessee Code Annotated, Section 49-3-312, is amended by deleting the section in its entirety, and by substituting instead the following new language:

Section 49-3-312. Substitute teachers.

(1) A substitute teacher substituting for a regular teacher on leave authorized for a period not exceeding twenty (20) consecutive teaching days is not required to possess a teacher's certificate or permit.

(2) A substitute teacher who is a retired teacher is not required to continue to renew such teacher's certification in order to work as a substitute teacher.

SECTION 9. Tennessee Code Annotated, Section 49-3-314, is amended by deleting the section in its entirety and by substituting instead the following new language:

Section 49-3-314. Distribution of state funds.

(a) (1) State education finance funds shall be distributed annually to the LEAs by the commissioner according to the following plan and subject to all restrictions provided by law.

(2) In making distribution of state funds to the LEAs, no allowance shall be made by the state for any school in which the right to exercise authority of the respective local director of schools and the board is not as full and ample in all phases of the school program as in any other school of the LEA.

(b) (1) Approximately one tenth (1/10) of the estimated total of the state funds annually appropriated for the BEP shall be distributed on or about August 15, and on or about the fifteenth day of each succeeding month through April 15, and the amount of the remainder due each LEA for the school year shall be determined during June of such school year. The amount of such remainder due shall be determined on the basis of the records which each LEA has furnished the commissioner. The actual delivery of the warrant covering the final distribution to an LEA shall not be made until after all records required by the commissioner have been furnished. Before a full and complete settlement is made with any LEA for any year, all records and reports required by the commissioner shall be filed with the commissioner by such LEA.

(2) The disbursement of state funds annually appropriated for the school lunch program, as defined in § 49-3-313, shall be under rules and regulations prescribed by the commissioner, as approved by the state board.

(3) If the funds available for distribution to the LEAs as provided in this part are insufficient to meet the state's portion of such funding, the commissioner shall make reductions in the amount of state funds for which each LEA may qualify. The percentage of such reduction shall be the same to each LEA.

(c) In order for any LEA to receive state education finance funds as set forth in this part, such system shall meet the following conditions and requirements. In order to enforce the same, the commissioner may, in the commissioner's discretion, withhold a portion or all of the state education finance funds which the LEA is otherwise eligible to receive.

(1) Every LEA shall meet the requirements of state law as to the operation of such LEA.

(2) Every LEA and each school therein shall meet the rules, regulations and minimum standards established by the state board for the location, construction and operation of schools.

(3) (A) No LEA shall use state funds to supplant total local current operating funds, excluding capital outlay and debt service. The provisions of the preceding sentence shall not apply to a newly created LEA in any county where the county and city schools are being combined for a period of three (3) years after the creation of such LEA.

(B) (i) Notwithstanding any other law to the contrary, for fiscal year 1992-1993 and any subsequent fiscal year, if state funding to the county for education is less than state funding to the county for education during the previous fiscal year (except that a reduction in funding based on fewer students in the county rather than actual funding cuts, shall not be considered a reduction in funding for purposes of this provision), local funds that were appropriated and allocated to offset state funding reductions during any previous fiscal year are excluded from this maintenance of local funding effort requirement.

(ii) It is the intent of this provision to allow local governments the option to appropriate and allocate funds to make up for state cuts without being subject to a continuation of funding effort requirement as to those funds for any year during which the state reinstates the funding (or restores the previous cuts) and during any subsequent year should the state fail to restore the funding cuts.

SECTION 10. Tennessee Code Annotated, Section 49-3-315 (a), is amended by deleting the language "state funds appropriated" and replacing it with the language "state funds generated", where it appears in the section.

SECTION 11. Tennessee Code Annotated, Section 49-3-317, is amended by deleting the section in its entirety and by substituting instead the following new language:

Section 49-3-317. Adjustments to reflect local changes.



(a) Whenever the operation of schools in any LEA is suspended by reason of epidemic, natural disaster, or other justifiable cause, if so determined by the state board upon the written petition of the board, such suspension shall not operate to deprive the LEA of state funds to which it would be entitled, if the LEA otherwise meets the requirements of law.

(b) Whenever the schools in any LEA are conducted on a year-round basis, such shall not operate to reduce the level of state support to the LEA, and the commissioner shall make adjustments necessary to accommodate such operation so as not to diminish state financial support.

(c) (1) If, as of July 1 of any school year, there has been a change since the beginning of the previous school term in the boundaries of an LEA or, pursuant to § 49-2-106, the creation or reactivation of an LEA, involving the shift of students from one LEA to another, then, in the distribution of state education funds, the commissioner shall determine, on the basis of information submitted to the commissioner by the appropriate boards, the ADM of students residing in such affected area, involved in such shift.

(2) The commissioner shall make such adjustments in the ADM as may be necessary to effectuate an equitable distribution and division of funds as between the LEAs operating a system of public schools therein; and such adjusted ADM shall be used in making the apportionment and distribution of state education funds.

(d) Allowed costs of educating students in other states under the provisions of § 49-6-3108 shall be included in the state education funds of affected LEAs, as determined by the commissioner.

SECTION 12. This act shall take effect upon becoming a law, the public welfare requiring it.